

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Plaintiff,

v.

LEE ANTON JACKSON,

Defendant.

ORDER

08-cr-69-bbc

Defendant Lee Anton Jackson has been charged by the grand jury with being a felon in possession of a firearm. He filed motions to suppress the evidence of the gun and statements he made to the police after he was arrested. The magistrate judge filed a report on September 3, 2008, recommending denial of defendant's motions. Defendant filed objections to the report and recommendation, objecting only to the recommendation that this court deny defendant's motion to suppress the gun seized by the Madison police in a consensual search of defendant's computer bag. Defendant waived his challenge to the use of his post-arrest statements because the government has advised him it does not intend to use those statements at trial.

Although defendant's counsel tries to show that the search of defendant's computer

bag violated defendant's constitutional rights, he is unable to do so. The undisputed facts are that a police officer stopped a car driver by defendant's mother on the ground that she was operating after revocation. He asked her about her contact with defendant at a strip mall several minutes earlier. Defendant's mother told the officer that her son had lent her his computer at her request. The officer asked whether he could look at the bag and the computer and defendant's mother gave her consent. Not only did she agree to the search but she helped the officer unlatch the bag when he had difficulty doing so. The officer found a gun in one of the bag's pockets and passed on the information to other officers, who arrested defendant.

As defendant concedes, a third party's consent to a search defeats a Fourth Amendment challenge unless it would appear to a reasonable officer that the third party did not have authority over that property. Defendant's mother's possession of the computer and bag suggested to the officer that she was authorized to consent to a search of the bag. Defendant has not identified any fact that would have given the officer any other impression. Defendant's mother did not say that she was not authorized to let anyone open the bag; instead, she handed it over to the officer with no restrictions.

The magistrate judge reached the correct conclusion in recommending that the court deny defendant's motion to suppress evidence of the gun.

ORDER

IT IS ORDERED that the recommendation of the United States Magistrate Judge to deny defendant Lee Anton Jackson's motion to suppress the gun seized in a search of defendant's computer bag is ADOPTED; defendant's motion to suppress the gun is DENIED.

Entered this 28th day of October, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge